



PATENT  
Customer No. 22,852  
Attorney Docket No. 5725.0832-00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                                |   |                        |
|--------------------------------|---|------------------------|
| In re Application of:          | ) |                        |
|                                | ) |                        |
| Véronique FERRARI et al.       | ) | Group Art Unit: 1615   |
|                                | ) |                        |
| Application No.: 09/749,036    | ) | Examiner: J. Venkat    |
|                                | ) |                        |
| Filed: December 28, 2000       | ) | Confirmation No.: 5474 |
|                                | ) |                        |
| For: COMPOSITION COMPRISING AT | ) |                        |
| LEAST ONE POLYAMIDE            | ) |                        |
| POLYMER AND AT LEAST ONE       | ) |                        |
| PASTY FATTY SUBSTANCE AND      | ) |                        |
| METHODS FOR USE (AS            | ) |                        |
| AMENDED)                       | ) |                        |

**MAIL STOP RCE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Office the documents on the attached listing. This Supplemental Information Disclosure Statement is being filed before the mailing date of a first Office Action after the filing of a Request for Continued Examination in the above-referenced application.

Copies of the listed documents are attached, excluding any U.S. Patents, Patent Application Publications, and co-pending U.S. Patent Applications which are available in the Image File Wrapper System.

Applicants' representatives understand from the Examiner that in the past she considered references cited in the IDS Forms PTO/SB/08 filed but crossed through some of the citations and did not initial the entries to avoid the printing of the those documents on the face of any patent granted on this application. In light of the Examiner's representations regarding the crossing-out of references, Applicants will consider any entries crossed through by the Examiner in this case as having been properly submitted and considered by the Examiner unless the Examiner specifically states otherwise in the papers returning the form.

Additionally, in the Amendment and Reply Under 37 C.F.R. § 1.111 submitted herewith, Applicant identified litigation documents that the Office did not consider and crossed through when previously submitted and described in the accompanying Information Disclosure Statements. For the reasons stated therein, Applicants believe those references were properly submitted and should be considered by the Office. Therefore, Applicants have relisted those crossed-through references on the enclosed IDS Form PTO/SB/08, but have not submitted additional copies of the documents, and request that the Office consider them and indicate that they were considered by making appropriate notations on the attached form.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants are not representing that the office actions in the co-pending applications are

material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive office actions filed in co-pending applications on the attached form. At the Examiner's request, Applicants have not included copies of the office actions from the co-pending applications issued by the Examiner of this application.

Applicants respectfully request that the Office consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

With respect to the non-English language documents, Applicants submit the following remarks:

1. **FR 2 804 286** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
2. **JP 9/263516** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
3. **JP 10/001444** - An abstract of the disclosure of this document can be found in the English language abstract from esp@cenet submitted herewith.
4. **JP 2000/154112 A** - An abstract of the disclosure of this document can be found in the English language abstract from Patent Abstracts of Japan submitted herewith.
5. **JP 2000/503305 A** - The document is believed to be related to U.S. 6,007,796, which is listed herewith.
6. **JP 2002/539220** - An abstract of the disclosure of this document can be found in the English language abstract from esp@cenet submitted herewith. The document is also believed to be related to U.S. 6,830,610, which is listed herewith.

7. **JP 45/41318** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.

8. **JP 48/38861** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.

9. **JP 49/75740** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.

10. **JP 52/007067** - An abstract of the disclosure of this document can be found in the English language abstract from esp@cenet submitted herewith.

11. **JP 64/90110** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.

This submission does not represent that a search has been made or that no better art exists, and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Office applies any of the documents as prior art against any claim in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of such documents.

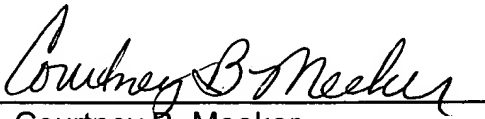
Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 20, 2006

By:   
Courtney B. Meeker  
Reg. No. 56,821

|  |   |    |   |                          |                          |
|--|---|----|---|--------------------------|--------------------------|
| IDS Form PTO/SB/08: Substitute for form 1449A/PTO<br><b>INFORMATION DISCLOSURE<br/>STATEMENT BY APPLICANT</b><br>(Use as many sheets as necessary) |   |    |   | <b>Complete if Known</b> |                          |
|  |   |    |   | Application Number       | 09/749,036               |
|  |   |    |   | Filing Date              | December 28, 2000        |
|  |   |    |   | First Named Inventor     | Veronique FERRARI et al. |
|  |   |    |   | Art Unit                 | 1615                     |
|  |   |    |   | Examiner Name            | J. VENKAT                |
|  |   |    |   | Attorney Docket Number   | 5725.0832-00             |
| Sheet  | 1 | of | 4 |                          |                          |

| U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS |          |                             |   |   |   |
|---|----------|-----------------------------|---|---|---|
| Examiner Initials                                   | Cite No. | Document Number             | Issue or Publication Date<br>MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
|   |          | Number-Kind Code (if known) |   |   |   |
|   |          | 3,324,041                   | 6/1/1967                                | Sommer Harry J et al.                           |   |
|   |          | 4,885,709                   | 12/5/1989                               | Edgar et al.                                    |   |
|   |          | 5,436,006                   | 7/25/1995                               | Hirose et al.                                   |   |
|   |          | 6,007,796                   | 12/28/1999                              | Menzel et al.                                   |   |
|   |          | 6,042,815                   | 3/28/2000                               | Kellner et al.                                  |   |
|   |          | 6,410,003                   | 6/25/2002                               | Bhatia et al.                                   |   |
|   |          | 6,830,610 B1                | 12/14/2004                              | Bruchert et al.                                 |   |
|   |          | 6,869,594 B2                | 3/22/2005                               | Ferrari   |   |
|   |          | 6,881,400 B2                | 4/19/2005                               | Collin  |   |
|   |          | 6,960,339 B2                | 11/1/2005                               | Ferrari et al.                                  |   |
|   |          | 6,979,469                   | 12/27/2005                              | Ferrari et al.                                  |   |
|   |          | US 2003/0129211             | 7/10/2002                               | Livoreil et al.                                 |   |
|   |          | US 2004/0247549 A1          | 12/9/2004                               | Lu et al.                                       |   |
|   |          | US 2005/0008598 A1          | 1/13/2005                               | Lu et al.                                       |   |
|   |          | US 2005/0008599 A1          | 1/13/2005                               | Lu et al.                                       |   |
|   |          | US 2005/0065261 A1          | 3/24/2005                               | Darlington Jr. et al.                           |   |
|   |          | US 2005/0089491 A1          | 4/28/2005                               | Collin  |   |
|   |          | US 2005/0089505 A1          | 4/28/2005                               | Collin  |   |
|   |          | US 2005/0089541 A1          | 4/28/2005                               | Lacoutiere                                      |   |
|   |          | US 2005/0191327 A1          | 9/1/2005                                | Yu et al.                                       |   |

| FOREIGN PATENT DOCUMENTS |          |  |                                |   |   |             |
|--------------------------|----------|--|--------------------------------|---|---|-------------|
| Examiner Initials        | Cite No. | Foreign Patent Document                  | Publication Date<br>MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear | Translation |
|                          |          | Country Code Number Kind Code (if known) |                                |   |   |             |
|                          |          | EP 1 018 332                             | 7/12/2000                      |   |   | English     |
|                          |          | FR 2 804 286                             | 8/3/2001                       |   |   | Abstract    |
|                          |          | JP.09/263516                             | 10/7/1997                      |   |   | Abstract    |

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| Examiner Signature |  | Date Considered |  |
|--------------------|--|-----------------|--|

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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| IDS Form PTO/SB/08: Substitute for form 1449A/PTO   |   |    |   | <b>Complete if Known</b> |                          |
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|   |   |    |   | Examiner Name            | J. VENKAT                |
| Sheet   | 2 | of | 4 | Attorney Docket Number   | 5725.0832-00             |

### FOREIGN PATENT DOCUMENTS

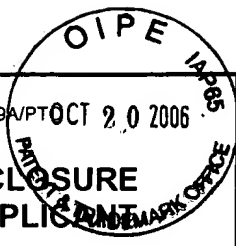
| Examiner Initials | Cite No. | Foreign Patent Document<br>Country Code Number Kind Code (if known) | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns,<br>Lines, Where<br>Relevant Passages<br>or Relevant Figures<br>Appear | Translation              |
|-------------------|----------|---|--------------------------------|--|---|--------------------------|
|                   |          | JP 10/001444  | 1/6/1998                       |  |   | Abstract                 |
|                   |          | JP 2000/0154112   | 6/6/2000                       |  |   | Abstract                 |
|                   |          | JP 2000/503305  | 3/21/2000                      |  |   | Related English Document |
|                   |          | JP 2002/539220  | 11/19/2002                     |  |   | Abstract                 |
|                   |          | JP 45-41318   | 12/24/1970                     |  |   | Abstract                 |
|                   |          | JP 48-38861   | 11/20/1973                     |  |   | Abstract                 |
|                   |          | JP 49-75740   | 7/22/1974                      |  |   | Abstract                 |
|                   |          | JP 52-007067  | 2/26/1977                      |  |   | Abstract                 |
|                   |          | JP 64-90110   | 4/6/1989                       |  |   | Abstract                 |

### NON PATENT LITERATURE DOCUMENTS

| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | Translation |
|-------------------|----------|---|-------------|
|                   |          | Co-Pending Application No. 11/212,811, Attorney Docket No. 05725.0816-03 Title: A TRANSFER-FREE MASCARA COMPOSITION COMPRISING AT LEAST ONE VOLATILE SOLVENT AND AT LEAST ONE POLYMER U.S. Filing Date August 29, 2005  |             |
|                   |          | Co-Pending Application No. 11/312.338, Attorney Docket No. 05725.1538 Title: COMPOSITION AND PROCESS FOR COATING KERATIN FIBERS U.S. Filing Date December 21, 2005  |             |
|                   |          | Co-Pending Application No. 11/351,309, Attorney Docket No. 5725.1020-01 Title: COSMETIC COMPOSITION CONTAINING A POLYMER AND A FLUORO OIL U.S. Filing February 10, 2006   |             |
|                   |          | Co-Pending Application No. 11/406,371; Attorney Docket No. 06028.0130-00 Title: COSMETIC COMPOSITION COMPRISING SILICA PARTICLES, REFLECTING PARTICLES, AND AT LEAST ONE POLYMER, PREPARATIVE PROCESS, AND USES THEREOF U.S. Filing Date: April 19, 2006        |             |
|                   |          | English language Abstract from Patent Abstracts of Japan for JP 2000/0154112  |             |
|                   |          | English language Derwent abstract for JP 09/263516  |             |
|                   |          | English language Derwent abstract for JP 45-41318   |             |
|                   |          | English language Derwent abstract for JP 48-38861   |             |

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

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|-------------------|----------|---|-------------|
|                   |          | English language Derwent abstract for JP 49-75740   |             |
|                   |          | English language Derwent abstract for JP 64-90110   |             |
|                   |          | English language DERWENT abstract of FR 2,804,286   |             |
|                   |          | English language esp@cenet abstract for JP 10/001444  |             |
|                   |          | English language esp@cenet abstract for JP 2002/539220 (WO0055264)  |             |
|                   |          | English language esp@cenet abstract for JP 52/007067  |             |
|                   |          | Estee Lauder's Amended Answer and Counterclaims, dated April 21, 2005, in the on-going litigation L'Oreal S.A., et al., v. The Estee Lauder Companies Inc., et al., Civil Action No. 04-1660 (D.N.J.)   |             |
|                   |          | Estee Lauder's Answer and Counterclaims, dated May 27, 2004, in the on-going litigation L'Oreal S.A., et al., v. The Estee Lauder Companies Inc., et al., Civil Action No. 04-1660 (D.N.J.)   |             |
|                   |          | Estee Lauder's Response to Plaintiff's First Set of Interrogatories (Nos. 1-6), dated September 27, 2004, in the on-going litigation L'Oreal S.A., et al. v. The Estee Lauder Companies Inc., et al., Civil Action No. 04-1660 (D.N.J.)                         |             |
|                   |          | Estee Lauder's Response to Plaintiff's Third Set of Interrogatories (Nos. 8-13), dated June 21, 2005, in the on-going litigation L'Oreal S.A., et al. v. The Estee Lauder Companies Inc., et al., Civil Action No. 04-1660 (D.N.J.)                             |             |
|                   |          | L'Oreal's Complaint for Patent Infringement, dated April 7, 2004, in the on-going litigation L'Oreal S.A., et al., v. The Estee Lauder Companies Inc., et al., Civil Action No. 04-1660 (D.N.J.)  |             |
|                   |          | Office Action in co-pending Application No. 09/733,896 (Attorney Docket No. 05725.0806-00) dated January 30, 2006 (Ex. Nutter)  |             |
|                   |          | Office Action in co-pending Application No. 09/733,897 (Attorney Docket No. 05725.0809) dated July 27, 2006 (Ex. Venkat)  |             |
|                   |          | Office Action in co-pending Application No. 09/733,897 (Attorney Docket No. 05725.0809-00) dated February 8, 2006 (Ex. Venkat)  |             |
|                   |          | Office Action in co-pending Application No. 09/733,898 (Attorney Docket No. 05725.0808-00) dated January 11, 2006 (Ex. Yoon)  |             |
|                   |          | Office Action in co-pending Application No. 10/129,377 (Attorney Docket No. 05725.0819-01) dated January 13, 2006 (Ex. Venkat)  |             |
|                   |          | Office Action in co-pending Application No. 10/182,830 (Attorney Docket No. 05725.0795-01) dated November 25, 2005 (Ex. Venkat)   |             |
|                   |          | Office Action in co-pending Application No. 10/182,830 (Attorney Docket No. 05725.0795-01), dated May 17, 2006 (Ex. Venkat)   |             |

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|   |   | <i>Filing Date</i>            | December 28, 2000        |
|   |   | <i>First Named Inventor</i>   | Veronique FERRARI et al. |
|   |   | <i>Art Unit</i>               | 1615                     |
|   |   | <i>Examiner Name</i>          | J. VENKAT                |
|   |   | <i>Attorney Docket Number</i> | 5725.0832-00             |
| Sheet   | 4 | of                            | 4                        |

| NON PATENT LITERATURE DOCUMENTS |             |   |             |
|---------------------------------|-------------|---|-------------|
| Examiner<br>Initials            | Cite<br>No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item<br>(book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s),<br>publisher, city and/or country where published. | Translation |
|                                 |             | Office Action in co-pending Application No. 10/203,254 (Attorney Docket No. 05725.0817-01) dated December 5, 2005 (Ex. Dameron Jones)   |             |
|                                 |             | Office Action in co-pending Application No. 10/203,254 (Attorney Docket No. 05725.0817-01) dated June 1, 2006 (Ex. Dameron Jones)   |             |
|                                 |             | Office Action in co-pending Application No. 10/312,083 (Attorney Docket No. 05725.1187) dated September 28, 2005 (Ex. Venkat)   |             |
|                                 |             | Office Action in co-pending Application No. 10/312,083 (Attorney Docket No. 05725.1187-00) dated April 6, 2006 (Ex. Venkat)   |             |
|                                 |             | Office Action in co-pending Application No. 10/746,612 (Attorney Docket No. 05725.1338-01) dated February 17, 2006 (Ex. Venkat)   |             |
|                                 |             | Office Action in co-pending Application No. 10/990,475 (Attorney Docket No. 05725.1004-01) dated May 1, 2006 (Ex. Venkat)   |             |
|                                 |             | Office Action in co-pending Application No. 10/990,475 (Attorney Docket No. 05725.1004-01) dated November 2, 2005 (Ex. Venkat)  |             |
|                                 |             | Office Action in co-pending Application No. 11/212,811 Attorney Docket No. 05725.0816-03) dated August 24, 2006 (Ex. Venkat)  |             |
|                                 |             | Office Action in co-pending Application No. 11/212,811 Attorney Docket No. 05725.0816-03) dated November 17, 2005 (Ex. Venkat)  |             |
|                                 |             | Richard J. Lewis, Sr., "Fatty Acid," Hawley's Condensed Chemical Dictionary 487 (13th ed., 1997)  |             |
|                                 |             | U.S. District Court for the District of New Jersey Civil Docket for L'Oreal S.A. et al. v. Estee Lauder Companies, Inc., et al., Civ. No. 04-1660 (HAA) (filed April 7, 2004) (retrieved January 2, 2005)   |             |

|                       |  |                    |  |
|-----------------------|--|--------------------|--|
| Examiner<br>Signature |  | Date<br>Considered |  |
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